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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/525,377

04/06/2005

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25944 7590 05/08/2009
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EXAMINER

STREGE, JOHN B

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

05/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/525,377 | Applicant(s) DRALLE ET AL. | |
| | Examiner JOHN B. STREGE | Art Unit 2624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/12/09 has been entered.

Response to Amendment

2. The amendment received 02/12/09 has been entered in full.

Response to Arguments

3. Applicant's arguments filed 02/12/09 with respect to the 101 issues and the 112 issues have been fully considered but they are not persuasive. Specifically the Applicant argues in regard to the 101 issue that the inclusion of the limitation "outputting information on the determined first location of the object" is sufficient to tie the invention to a machine. The Examiner respectfully disagrees. While this limitation may be sufficient to provide a useful step for the invention, it however does not tie the invention to a machine. For example a person reading out loud the location of the object would be readable on the outputting limitation. The Examiner recommends including the limitation, "using a computer for determining, at the second location..." (amending line 9 of claim 17). Thus the 101 rejection is maintained. The Applicant further argues that the 112 rejection is overcome with support from the Applicant's specification at paragraph [0029]. Paragraph [0029] recites verbatim

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The resulting information about stacks or bundle of logs computed from the images are subsequently stored in a central database. This information includes basicly estimates on size, location and quality of the individual logs. Further, aggregate values at stack level as well as image scenes (movie pictures) of part of or of the whole recorded operation should be stored in the database too.

Specifically the Examiner sees no support in the above mentioned paragraph or anywhere in the specification that would show one of ordinary skill in the art how to carry out the limitation of "determining, at the second location, using the at least one image taken at the first location and the at least one image taken at the second location, the first location of the object". Thus the 112 rejection is maintained.

The arguments regarding the art rejections have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 17-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in paragraph [0029] or anywhere in the specification that would show one of ordinary skill in the art how to

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carry out the limitation of "determining, at the second location, using the at least one image taken at the first location and the at least one image taken at the second location, the first location of the object".

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 17-33 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101" - publicly available at USPTO.GOV, "memorandum to examining corp"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger et al. US 5,544,757 (hereinafter "Geiger") in view of Sorvik US 6,182,725.

Regarding claim 1, Geiger discloses a method comprising the steps of
taking, at a first location, at least one image of an object enabling identifying the object (col. 7 lines 40-46),

transporting the object from the first location to a second geographical location (col. 5 lines 19-32),

taking, at the second location, at least one image of the object enabling identifying the object (col. 7 lines 40-46)

Geiger does not explicitly disclose determining, at the second location, using the at least one image taken at the first location and the at least one image taken at the second location, the first geographical location of the object, and outputting information on the determined first location of the object.

Sorvik discloses a method for timber harvesting and system for forestry wherein the location of origin of a piece of timber can be obtained to relate a fallen piece of lumber to its lot of origin (col. 1 lines 46-col. 2 line 21), and further a display screen for outputting information about the position, paragraph bridging cols. 4-5). This would

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enable a user to determine where a piece of wood came from so that a response can be made in the case of feedback from the machine regarding quality, errors, etc (col. 2 lines 22-41).

Geiger and Sorvik are analogous art because they are from the same field of endeavor of lumber inspection.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine Geiger invention of identifying a piece of wood using imaging with Sorvik to determine the lot of origin of the wood. The motivation would be to allow a user to know where the wood they are looking at was obtained from so that further action can be taken. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Geiger and Sorvik to obtain the invention of claim 17.

Regarding claim 18, as discussed the object is a log.

Regarding claim 19, as discussed the first location is the harvesting location of Sorvik.

Regarding claims 20-26, Geiger discloses determining characteristics of the log (col. 7 lines 39-46).

Regarding claims 27-29 it is well know to process logs in a sawmill using a forwarder.

Regarding claim 30, the position of Sorvik is determined with GPS (figure 5).

Regarding claims 31-32, the cameras are mounted on equipment handling the logs (figure 6).

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Claim 33 is similarly analyzed to claim 17.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN B. STREGE whose telephone number is (571)272-7457. The examiner can normally be reached on Monday-Friday between the hours of 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Strega/
Primary Examiner
05/06/09

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